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FILED

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Division of Consumer Affairs

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

_____	:	<u>Administrative Action</u>
In the Matter of	:	
	:	
	:	
BEST BUY STORES, L.P.,	:	
a Minnesota corporation.	:	
_____	:	ASSURANCE OF VOLUNTARY COMPLIANCE

This matter having been initiated by Reni Erdos, Director of the New Jersey Division of Consumer Affairs, Office of Consumer Protection (hereinafter referred to as "Division"), as an investigation to ascertain whether any violations of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), and the regulations promulgated thereunder, N.J.A.C. 13:45A-1.1 et seq., specifically the General Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq. ("Regulations"), have been or are being committed by Best Buy Stores, L.P., and its officers, directors, employees, representatives, agents and/or assigns (hereinafter collectively referred to as "Best Buy" or "Respondent"); and

WHEREAS the Division and Best Buy (collectively referred to as the "Parties") have reached an amicable agreement resolving the issues in controversy and concluding this matter without the need for further action, and Best Buy having voluntarily cooperated and consented to

entry of this Assurance of Voluntary Compliance (hereinafter "Assurance") without having admitted any violation of law or finding of fact, and for good cause shown,

IT IS on this 10th day of May 2004, AGREED as follows:

1. BUSINESS PRACTICES

1.1 Respondent shall not engage in any unfair or deceptive acts or practices in the conduct of its business in the State of New Jersey (the "State") and shall comply with such state and/or federal laws, rules and regulations as now constituted or as may hereafter be amended, which are applicable to the conduct of its business.

1.2 Respondent shall not engage in any unfair and/or deceptive acts or practices in violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA") and/or the General Advertising Regulations promulgated thereunder, specifically N.J.A.C. 13:45A-9.1 et seq. (the "Regulations").

1.3 Respondent agrees to and shall comply with the following business practices:

- a. Respondent shall specifically designate in each advertisement and in close proximity to the advertised item any special or limiting factors relating to price, quality, condition or availability in accordance with N.J.A.C. 13:45A-9.2(a)(2);
- b. Respondent shall not utilize any type, size, location, lighting, illustration, graphic depiction or color resulting in the obscuring of any material fact regarding any condition of sale, in accordance with N.J.A.C. 13:45A-9.2(a)(5);
- c. Respondent shall comply in all respects with N.J.A.C. 13:45A-9.3 for merchandise advertised at a price less than \$100, including, but not limited to, referencing a former price or price range; however, this requirement shall not apply to merchandise discount offers made in accordance with N.J.A.C. 13:45A-9.8.

- d. Respondent shall comply in all respects with N.J.A.C. 13:45A-9.4 for merchandise advertised at a price greater than \$100, including, but not limited to: stating a selling price or price range; stating a former price or price range or the amount of the reduction in dollars; stating the period of time during which the price reduction shall be applicable, unless the merchandise is advertised in the manner set forth in N.J.A.C. 13:45A-9.2(a)1i-iii; and setting forth the former price or price range in close proximity to the selling price or price range;
- e. Respondent shall comply in all respects with N.J.A.C. 13:45A-9.2(a)(4) for any home appliance offered for sale in that Respondent shall disclose the manufacturer's name or the merchandise trade name, the model or series number and other such information as may be necessary to distinguish the advertised item from other similar merchandise produced by the same manufacturer;
- f. Respondent shall comply in all respects with N.J.S.A. 56:8-2.4 when merchandise which is depicted in an advertisement in an assembled condition is to be sold unassembled, the advertisement shall bear the notation that the merchandise is to be sold unassembled;
- g. Respondent shall comply in all respects with N.J.S.A. 56:8-2.5 to ensure that all merchandise offered for sale is clearly marked with a total selling price on a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale;
- h. Respondent shall clearly disclose in its advertisements any limitations on Best Buy originated rebate offers; and
- i. Respondent shall provide consumers with current and valid rebate forms for Best Buy originated rebate offers, when such forms are necessary.

2. EXISTING CONSUMER COMPLAINTS

2.1 Within fifteen (15) days of the entry of this Assurance, the Division will forward to Respondent a list identifying all currently outstanding consumer complaints and a copy of each underlying consumer complaint identified in the list. Within thirty (30) days of receipt of the complaint list and the copies of the underlying consumer complaints, Respondent shall provide to the Division written proof as to each consumer to whom Respondent has paid restitution and/or

2.6 If a consumer refuses to participate in the ADR program, that consumer's complaint shall be deemed closed for the purposes of this Assurance.

2.7 In the event that Respondent fails or refuses to participate in the arbitration process with the consumer, the arbitrator may enter a default against Respondent. Moreover, Respondent's failure or refusal shall constitute a violation of this Assurance.

3. FUTURE CONSUMER COMPLAINTS

3.1 For a period of twelve (12) months from the entry of this Assurance, the Division shall forward to Respondent a copy of any consumer complaints received by the Division or forwarded to the Division by any county or municipal CALA office. The Division shall forward to Respondent the complaints of any such consumers ("Additional Consumers") within thirty (30) days of the Division's receipt thereof.

3.2 The Division shall notify the Additional Consumers, in writing, of the following: (a) that their complaints have been forwarded to Respondent; (b) that they should expect a response from Respondent within thirty (30) days; and (c) their right to refer their complaints to the ADR Unit for resolution as set forth in the attached ADR Guidelines if Respondent disputes the complaint and/or requested relief.

3.3 Within thirty (30) days of receiving the Additional Consumer complaints, Respondent shall send a written response to each Additional Consumer, with a copy to the following: New Jersey Division of Consumer Affairs, Office of Consumer Protection, Attention: Case Management Tracking Supervisor, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101.

3.4 If Respondent does not dispute the Additional Consumer's complaint and requested relief, Respondent's written response shall so inform the Additional Consumer. Respondent shall

contemporaneously forward to such Additional Consumer the appropriate restitution as well as all necessary documents.

3.5 If Respondent disputes the Additional Consumer's complaint and/or the requested relief, Respondent's written response shall include copies of all documents concerning Respondent's dispute of the complaint.

3.6 If the Respondent has not notified the Division that an Additional Consumer's complaint has been resolved within forty-five (45) days of Respondent's receipt of the complaint or if an Additional Consumer refuses Respondent's offer of restitution, the Division shall forward such complaint to the ADR Unit of the Division to utilize the procedures set forth in the ADR Guidelines attached hereto. The Division shall notify any such Additional Consumer of the referral of the complaint to ADR. Thereafter, the matter will proceed in accordance with the ADR Guidelines attached hereto.

3.7 If an Additional Consumer refuses to participate in the ADR program, that consumer's complaint shall be deemed closed for the purposes of this Assurance.

3.8 In the event that Respondent fails or refuses to participate in the ADR process with the Additional Consumer, the arbitrator may enter a default against Respondent. Moreover, Respondent's failure or refusal shall constitute a violation of this Assurance.

3.9 After the expiration of the twelve (12) month period set forth in Paragraph 3.1, the consumer complaint resolution procedure set forth in this Section will automatically renew for successive one (1) year periods unless either the Division or Respondent provides written notice of termination within thirty (30) days of the expiration of any such renewal period. The written notice of termination shall be made as set forth in Paragraph.

4. PAYMENT TO THE STATE

4.1 Respondent agrees that in settlement of this matter, it shall pay the amount of One Hundred Thirty-Three Thousand Five Hundred and 00/100 Dollars (\$133,500.00) to the State of New Jersey (the "Settlement Payment").

4.2 From the Settlement Payment, the State of New Jersey (the "State") shall receive Eight Thousand Five Hundred and 00/100 Dollars (\$8,500.00) as reimbursement for the State's reasonable and appropriate investigative and other costs, pursuant to N.J.S.A. 56:8-11.

4.3 From the Settlement Payment, the State shall receive One Hundred Twenty-Five and 00/100 Dollars (\$125,000.00), pursuant to N.J.S.A. 56:8-13. Said payment shall be applied to the funding of further and future Division initiatives.

4.4 Respondent agrees to make the Settlement Payment contemporaneously with the execution of this Assurance. Such payment shall be made by certified check or money order made payable to "Treasurer, State of New Jersey" and delivered to the following address:

Nicholas Armstrong, Deputy Attorney General
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

5. EFFECT OF AGREEMENT

5.1 This Assurance does not constitute an admission by Respondent that any of its acts and/or practices are unfair or deceptive or violate any of the consumer protection laws of New Jersey.